

# City of Bay Village

Council Minutes, Special Meeting  
Council Chambers 8:00 p.m.  
Paul Koomar, President of Council, Presiding

January 14, 2013

Present: Clark, Koomar, Lee, Lieske, Tadych, Young, Mayor Sutherland

Not Present: Mr. Miller

Others

Present: Law Director Ebert, Finance Director Mahoney, Police Chief Wright,  
Community Services Director Bock, Recreation Director Enovitch, Operations  
Manager Landers

President of Council Koomar called the Special Meeting of Council to order at 8:00 p.m. in the Council Chambers with the Pledge of Allegiance led by Councilwoman Karen Lieske, Ward 3, and roll call.

**Motion** by Clark to appoint Steven C. Lee to the position of Council-at-large to fill the vacancy created by the resignation of Scott A. Pohlkamp.

**Motion passed 5-0.**

**Mayor Sutherland** administered the Oath of Office to Councilman-at-large Steven C. Lee.

**Motion** by **Clark** to appoint Michael Young as the Vice-President of Council.

**Motion passed 6-0.**

**Motion** by **Young** to approve the 2013 Council Committee Assignments as follows:

Public Improvements, Streets Sewers and Drainage Committee – Clete Miller, Chair; Members - David Tadych and Steve Lee

Recreation and Park Improvements – Karen Lieske, Chair; Members – Clete Miller, Dwight Clark

Finance and Claims Committee – Mike Young, Chair; Members- Dwight Clark, David Tadych

Services Utilities and Equipment Committee – David Tadych, Chair; Members- Karen Lieske, Steve Lee

Planning, Zoning, Public Grounds and Buildings Committee – Steve Lee, Chair; Members- Clete Miller and Mike Young

Environment, Safety and Community Services Committee – Dwight Clark, Chair; Members – Mike Young, Karen Lieske

Boards and Commissions Representation:

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Planning Commission – Steve Lee  
Architectural Board of Review- David Tadych  
Community Services Advisory Board- Dwight Clark  
Parks and Recreation- Karen Lieske  
Income Tax Board of Review-Mike Young  
Ad Hoc Committee for Walker Road Park – David Tadych, Mike Young, Dwight Clark  
Bay Family Services – Paul Koomar

**Motion passed 6-0.**

## **ANNOUNCEMENTS**

**Mayor Sutherland** announced that the Westshore Mayors and Mayor Sutherland were awarded the Taxpayer Hero Award from Ohio State Auditor, Dave Yost, for their work in collaborative and shared services over the years. The Mayor stated that she is proud to accept the award, not only on behalf of herself, but for all the people who have gone before her who started the Westshore Council of Governments. Mayor Sutherland stated that the organization is a model for other cities in the state. There are very few communities that work as closely together as the Westshore communities. The Mayor stated that they are very fortunate to have such a great group of people to work with.

Mr. Koomar commented that the collaboration that goes on and the efficiencies they achieve in the Westshore are due to the Council of Governments and the work that they accomplish.

**Law Director Ebert** advised that the City of Bay Village was contacted in early January by the Ohio Citizens Action Group about changing the solicitation ordinance that was passed in June of this past year, back to the 9 p.m. time. Mr. Ebert noted that the city changed the ordinance, after lengthy discussion, about where the Bay Village ordinance stood with other cities. Bay Village had a 9 a.m. to 9 p.m. time frame for solicitation, similar to that of the City of Rocky River. The City of Westlake had a 9 a.m. to 8 p.m. time restriction for solicitation, including a one-half hour before sunset clause. North Olmsted's law was 9 a.m. to 8 p.m. Monday through Friday, with no solicitation on Sundays or legal holidays. The City of Lakewood imposed a time restriction for solicitation of 9 a.m. to 8 p.m., or sunset, whichever is earlier. Fairview Park's ordinance was 9 a.m. or the earlier of sunset, or 8 p.m. Bay Village changed their ordinance to be consistent with all other cities except Rocky River.

The Ohio Citizens Action Group has advised Law Director Ebert with correspondence, stating that the Bay Village ordinance is unconstitutional and they want it changed back to 9 a.m. to 9 p.m. Mr. Ebert stated that the issue that concerned Council when it was changed back to the earlier time was having doorbells ringing when it is dark outside. The city does have "No Solicitation" stickers that people use but are not always seen by the solicitors when they approach a door. Mr. Ebert stated that he will discuss this again with Council. If the issue does get back on the agenda it is because of the Ohio Citizens Action Group claim that the time restriction is a violation of the First Amendment. Mr. Ebert noted that this issue came up ten years ago by the Ohio Citizens Action Group. The City of Bay Village ordinance was for an earlier time restriction at that time. It was changed to be 9 a.m. to 9 p.m. at the insistence of

Federal Court Judge Manos after a hearing in Federal Court.

Mr. Ebert noted that the issue will be discussed in the next coming days. Hopefully, this can be resolved or the city will be back in court on a First Amendment issue.

## **AUDIENCE**

The following members of the audience signed in this evening: Russell Thompson, Ernest D. Minichello, Lawrence Kuh, Dick Majewski, Margaret Ludwig, Jennifer Smillie, Patrick McGannon, Carl Gonzalez, Jerrie Barnett, Denny Wendell, Bruce Geiselman, Jeff Gallatin.

Jennifer Smillie, 400 Forestview Road, stated that she is a founder and board member of the Bay Village Bicycle Cooperative. Ms. Smillie expressed appreciation to Service Director Galli and Councilman Miller for meeting representatives of the Village Bicycle Cooperative at the Community House on Friday, January 11. The space looks great, like it will definitely serve the Village Bicycle Cooperative needs to help them get started in establishing a community service. Mrs. Smillie welcomed any questions from Council. Mr. Clark commented on the good effort of the Village Bicycle Cooperative and encouraged them to keep moving forward with their goals. Mr. Koomar commented that the Council looks forward to working with the Village Bicycle Cooperative and thanked Ms. Smillie for introducing herself to the Council this evening.

Nancy Brown, Wolf Road, stated that she would like to be on the record to let everyone know that the Bay Village Chapter of the League of Women Voters will be meeting this Saturday at 10 a.m. at the Bay Village Police Station to review their 2013 plan. The meeting is open to the public.

**Mayor Sutherland** announced the appointment of Scott Pohlkamp to the Community Services Advisory Board for a three year term, expiring January 14, 2016.

Mr. Koomar called for a reading of the Minutes of the Regular Meeting of Council held December 17, 2012. Mr. Clark **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 5-0. Mr. Lee abstained. Mr. Koomar called for a reading of the Minutes of the Special Meeting of City Council held December 27, 2012. Mr. Clark **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 5-0. Mr. Lee abstained.

**Motion by Clark** to confirm the Mayor's appointment of Scott Pohlkamp to the Community Services Advisory Board for a three year term ending January 14, 2016 to fill the vacancy that exists at this time. Mr. Koomar expressed favor with the continued involvement of former Councilman-at-large Scott Pohlkamp.

**Motion passed 6-0.**

**Mr. Clark** introduced **ORDINANCE NO. 13-1**, amending by reading under the Penalty Section, that any person who violates the provisions of Section 1729 (i) be amended to read

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Section 1723 (i), ENACTING NEW CODIFIED ORDINANCE CHAPTER 1723 ENTITLED WESTSHORE REGIONAL COMMUNITY EMERGENCY RESPONSE TEAM (WSC), AND DECLARING AN EMERGENCY, and moved for adoption.

Mr. Clark noted that this legislation is consistent with what other communities are adopting for this collaboration.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance 13-1.

Roll Call on Suspension of Charter Rules:  
Yeas- Clark, Koomar, Lee, Lieske, Tadych, Young  
Nays-None  
Roll Call on Suspension of Council Rules:  
Yeas –Clark, Koomar, Lee, Lieske, Tadych, Young  
Nays–None  
Roll Call on Use of the Emergency Clause:  
Yeas –Clark, Koomar, Lee, Lieske, Tadych, Young  
Nays -None  
Roll Call on Adoption:  
Yeas–Clark, Koomar, Lee, Lieske, Tadych, Young  
Nays–None.

Mr. Koomar announced adoption of **Ordinance No. 13-1**, an emergency measure, by a vote of 6-0.

**Mr. Young** introduced **Ordinance 13-2** authorizing the Mayor to execute Change Order No. 1 for Petty Group, LLC, for The 2012 Sidewalk Repair Program, and declaring an emergency, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance 13-2.

Roll Call on Suspension of Charter Rules:  
Yeas- Koomar, Lee, Lieske, Tadych, Young, Clark  
Nays-None  
Roll Call on Suspension of Council Rules:  
Yeas –Koomar, Lee, Lieske, Tadych, Young, Clark  
Nays–None  
Roll Call on Use of the Emergency Clause:  
Yeas –Koomar, Lee, Lieske, Tadych, Young, Clark  
Nays -None  
Roll Call on Adoption:  
Yeas– Koomar, Lee, Lieske, Tadych, Young, Clark  
Nays–None.

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Mr. Koomar announced adoption of **Ordinance No. 13-2**, an emergency measure, by a vote of 6-0.

**Mr. Young** introduced **Resolution No. 13-3** DECLARING THE OFFICIAL INTENT AND REASONABLE EXPECTATION OF THE CITY OF BAY VILLAGE, ON BEHALF OF THE STATE OF OHIO (THE BORROWER), TO REIMBURSE ITS OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT PROGRAM FOR THE CAHOON CREEK AERIAL SEWER REPLACEMENT PROGRAM, WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 13-3.

Roll Call on Suspension of Charter Rules:

Yeas- Lee, Lieske, Tadych, Young, Clark, Koomar

Nays-None

Roll Call on Suspension of Council Rules:

Yeas – Lee, Lieske, Tadych, Young, Clark, Koomar

Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –Lee, Lieske, Tadych, Young, Clark, Koomar

Nays -None

Roll Call on Adoption:

Yeas– Lee, Lieske, Tadych, Young, Clark, Koomar

Nays–None.

Mr. Koomar announced adoption of **Resolution No. 13-3**, an emergency measure, by a vote of 6-0.

**Mr. Young** introduced **Resolution No. 13-4** amending by reading Section 4 to strike the words “Clerk of Council of the” DECLARING THE OFFICIAL INTENT AND REASONABLE EXPECTATION OF THE CITY OF BAY VILLAGE, ON BEHALF OF THE STATE OF OHIO (THE BORROWER), TO REIMBURSE ITS OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT PROGRAM FOR THE BRADLEY ROAD/NAIGLE ROAD IMPROVEMENT PROJECT (CA09N and CA10N), WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO, AND DECLARING AN EMERGENCY, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Resolution No. 13-4.

Roll Call on Suspension of Charter Rules:

Yeas-Lieske, Tadych, Young, Clark, Koomar, Lee

Nays-None

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Roll Call on Suspension of Council Rules:

Yeas –Lieske, Tadych, Young, Clark, Koomar, Lee

Nays–None

Roll Call on Use of the Emergency Clause:

Yeas –Lieske, Tadych, Young, Clark, Koomar, Lee

Nays -None

Roll Call on Adoption:

Yeas– Lieske, Tadych, Young, Clark, Koomar, Lee

Nays–None.

Mr. Koomar announced adoption of **Resolution No. 13-4**, an emergency measure, by a vote of 6-0.

**Mr. Young** read by title only, **ORDINANCE NO. 12-111 ENACTING NEW CODIFIED ORDINANCE CHAPTER 1370, ENTITLED “ELECTRICAL STAND-BY POWER GENERATOR SYSTEMS,” AND DECLARING AN EMERGENCY.**

Mr. Young stated that there will be a number of changes that will be read into the document on third reading. Mr. Young requested that Ordinance No. 12-111 be placed on Second Reading this evening.

Mr. Koomar announced that Ordinance No. 12-111 is placed on **Second Reading.**

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Young **MOVED** to adjourn to Executive Session regarding labor contracts, contracts, personnel, and litigation, at 8:17 p.m.

Roll Call Vote: Yeas- Clark, Koomar, Lee, Lieske, Tadych, Young. Nays – None. Motion passed 6-0. Also present in Executive Session were Mayor Sutherland, Law Director Ebert, and Finance Director Mahoney.

Council reconvened in an open meeting at 9:25 p.m. Present were: Clark, Koomar, Lee, Lieske, Tadych, Young.

There being no further business to discuss, the meeting adjourned at 9:27 p.m.

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Paul A. Koomar, President of Council

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Joan Kemper, Clerk of Council